IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITON NO.930 OF 2005

Arun Ramavtar Pathak ..... Petitioner.

V/s

State of Maharashtra & Anr. ..... Respondents.

Mr. Girish Kulkarni for the Petitioner.

Mr. Y.M. Nakhwa, APP for the State.

Mr. A. Mishra for Respondent No.2.

CORAM: V.M. KANADE, J.
DATE : 3rd September, 2007

P.C.:

1. Heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of Respondent No.2.

2. Petitioner is challenging the order passed by the Magistrate whereby the order was passed directing the Police to investigate into the matter under section 156(3) of the Criminal Procedure Code. The dispute between the parties is in respect of certain immovable property.

3. It is the case of the Petitioner that the Respondent No.2 had, by an agreement, agreed to handover a flat in reconstructed building. Accordingly, he had also filed a suit for specific performance which is pending in civil court. Thereafter, the present complaint has been

filed by Respondent No.2 in the Court of Additional Chief Metropolitan Magistrate in which they have alleged that the said agreement on which the reliance is placed by the Petitioner is forged.

4. The learned Counsel appearing on behalf of Respondent No.2 submits that the present Petition is not maintainable since the Petitioner has an alternative remedy of filing revision application in the Sessions Court.

5. In my view, the objection raised by Respondent No.2 will have to be accepted. Hence, Writ Petition is dismissed on the ground that the Petitioner has an alternative remedy of filing revision application in the Sessions court. Liberty is granted to the Petitioner to file revision application in the Sessions Court. If such revision application is filed within four weeks from today, Sessions Court shall consider the same on merits and dispose of the same within a period of two months thereafter. In the meantime, however, interim order granted by this Court shall continue for a period of four weeks. Liberty is granted to the Petitioner to renew his request for continuation of the interim relief before the Sessions Court.

(V.M. KANADE, J.)